

REMARKS/ARGUMENTS

Favorable reconsideration of this application, in light of the present amendments and following discussion, is respectfully requested.

Claims 1-9 are pending. By this Amendment Claims 1, 6 and 7 are amended and Claims 11 and 12 are canceled. No new matter has been added.

The Office Action rejects Claims 1-9, 11 and 12 under 35 U.S.C. § 112, first paragraph. Claims 1, 6 and 7 are amended to obviate this rejection. Claims 11 and 12 are canceled.

The Office Action rejects Claims 1, 6 and 7 under 35 U.S.C. § 102(e) over USP 6,567,924 to Muramatsu, Claims 1-3 and 6-9 are rejected under 35 U.S.C. § 103(a) over USP 6,673,350 to Takagi in view of USP 5,751,675 to Tsutsui et al., Claims 11 and 12 are rejected under 35 U.S.C. § 103(a) over Takagi in view of Tsutsui and further in view of USP 6,430,119 to Okada et al., and Claims 1, 4 and 6-9 under 35 U.S.C. § 103(a) (over USP 5,574,706 to Verboom in view of USP 5,986,592 to Nakagawa et al.). These rejections are respectfully traversed.

Before considering rejections under 35 U.S.C. § 102 and 35 U.S.C. § 103, it is believed that a brief review of the subject matter of the independent claims would be helpful. In this regard, independent Claim 1 is directed to a recording and playback apparatus for recording data onto a predetermined recording medium and playing back the data from the recording medium, the recording and playback apparatus including a judgment mechanism to determine whether or not to correct focus precision when recording data onto an Nth track of the recording medium or playing back data from the Nth track, a computing mechanism to compute a performance function value based on a jitter value or amplitude of an RF signal obtained from an already recorded track different than the Nth track and a correction mechanism to correct the focus precision if the judgment mechanism determines to correct

the focus precision in the recording data onto the Nth track of the recording medium or playing back data from the Nth track, the correction mechanism operating to correct the focus precision by using the performance function value.

Independent Claim 6 is directed to a recording and playback method for recording data onto a predetermined recording medium and playing back the data from the recording medium, the recording and playback method including determining whether or not to correct focus precision when recording data onto a Nth track of the recording medium or playing back data from the Nth track, computing a performance function value based on a jitter value or amplitude of an RF signal obtained from an already recorded track different than the Nth track and correcting the focus precision if it is determined to correct the focus precision in recording data onto the Nth track of the recording medium or playing back data from the Nth track, the correcting operating to correct the focus precision by using the performance function value.

Claim 7 is directed to, *inter alia*, a computer readable medium storing computer program instructions.

With respect to the rejection of Claims 1, 6 and 7 under 35 U.S.C. § 102(e) over Muramatsu, Applicant encloses an accurate translation JP 2000-287956 filed September 22, 2000. The instant application claims priority from JP 2000-287956, whose September 22, 2000 filing date is before the October 24, 2000 filing date of Muramatsu. As Applicants' claim for priority is perfected, withdrawal of this rejection is respectfully requested.

With respect to the rejection of Claims 1-3 and 6-9 under 35 U.S.C. § 103(a) over Takagi in view of Tsutsui, Applicants hereby enclose an affidavit under 37 C.F.R. § 1.131 establishing a date of invention prior to the September 19, 2000 filing date of Takagi. Withdrawal of this rejection is respectfully requested.

With respect to the rejection of Claims 1, 4 and 6-9 under 35 U.S.C. § 103(a) over Verboom in view of Nakagawa. Applicants respectfully disagree with the Office Action's assertion that Verboom discloses a judgment mechanism to determine whether or not to correct focus precision when recording onto an Nth track of the recording medium or playing back from the Nth track, as in independent Claims 1, 6 and 7 (see specification at page 16, line 12 *et seq.*). As disclosed in Verboom at col. 3, lines 57-59, during data readout the focus offset value for the FSP track nearest the track to be read is selected from the stored values. Thus, according to the disclosure of Verboom focus precision is always corrected. The only determination is which focus offset value is used. There is no disclosure of determining to not correct focus precision.

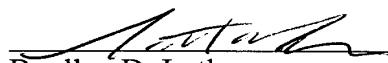
The remaining dependent claims are allowable for at least the reasons discussed above and for the individual features they recite. Withdrawal of the rejection of the dependent claims is respectfully requested.

For the foregoing reasons, it is respectfully submitted that this application is now in condition for allowance. A Notice of Allowance is earnestly solicited.

Should the Examiner deem that any further action is necessary to place this application in even better form for allowance, the Examiner is encouraged to contact Applicants' undersigned representative at the telephone number listed below.

Respectfully submitted,

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